

WAC 132S-110-090 Appeals. (1) The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the following procedures and time frames:

(a) An appeal may be filed in writing with the president's office within twenty-one days of the notice of initial order, with copies to all parties and the Title IX coordinator.

(b) The request for appeal must include a brief statement explaining the grounds for the appeal or why the party is seeking review. Disagreement with the initial order and/or sanctions does not, by itself, represent grounds for appeals.

(c) Decisions may be appealed for one or more of the following:

(i) To determine whether there was a procedural irregularity that substantially affected the outcome of the initial order. Deviation from designated procedures is not a basis for sustaining an appeal unless significant prejudice results.

(ii) To consider new evidence, sufficient to alter a decision, that was not reasonably available during fact finding and cross-examination, because such information and/or facts were not known, and the student bringing the appeal had no duty to discover or could not have reasonably discovered facts giving rise to the issues during investigation, live hearing, or fact finding. Refusal to participate during the investigation or live hearing does not constitute a right to appeal.

(iii) The Title IX coordinator or designee, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

(d) A party who timely appeals a decision under this procedure, has a right to a prompt, fair, and impartial review of their appeal.

(e) Supportive measures will remain in effect pending an appeal.

(f) Complainants are afforded the same right to appeal as respondents. If both parties appeal the decision, the appeals will be reviewed in the order in which they are filed or reviewed together, if they state the same, similar, or related grounds or substance for appeal.

(2) The president or their delegate will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).

(3) The president's office shall serve the final decision on the parties simultaneously.

[Statutory Authority: RCW 28B.50.140 and 20 U.S.C. § 1092(f) and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 20-23-031, § 132S-110-090, filed 11/10/20, effective 12/11/20.]